



*United States Attorney  
District of Minnesota*

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March 9, 2011

The Honorable Donovan W. Frank  
United States District Judge  
316 N. Robert Street, Suite 724  
St. Paul, MN 55101

Re: United States v. Barry Vincent Ardolf  
Criminal No. 10-159 (DWF/FLN)

Dear Judge Frank:

I have received the Court's letter dated March 4, 2011, in the above-referenced case, as well as the attached letter from the defendant. You have asked for a response to the defendant's letter.

Obviously, the United States objects to the defendant's request to withdraw his guilty plea and to obtain a "do over" trial. However, before we can address that issue, I believe that the question of the defendant's representation must first be resolved. On the last page of his letter to the Court, the defendant indicates that he wishes to fire his attorney and proceed pro se. The defendant is entitled to represent himself, and, because he has indicated his intent to do so, I believe that the Court must conduct a Faretta hearing before there are any other proceedings in this case. At such a hearing, the Court can determine whether the defendant has unequivocally waived his right to counsel and wants to represent himself and whether he has made the decision to do so knowingly, intelligently and voluntarily. If the defendant thereafter chooses to file a motion for withdrawal of his guilty plea, such a motion can be dealt with on its merits.

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I would respectfully request that a Faretta hearing take place as soon as possible to avoid additional delays to the sentencing on this matter. Defense counsel has already been granted a continuance to file objections to the PSR, which are now due on March 14.

Sincerely,

B. TODD JONES  
United States Attorney

*/s/ Timothy C. Rank*

BY: TIMOTHY C. RANK  
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TCR:lrc

cc: Seamus Mahoney, Esq.  
Leah Heino, USPO  
Katherian D. Roe, Federal Defender  
Laura Provinzino, AUSA